IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

OP.No. 23009 of 2002(L)

PETITIONER:

S.MOHAMMED S/O.ABDUL RAHIMAN,
AGED 66 YEARS, HIGH SCHOOL ASSISTANT ARABIC
(RETIRED) KALLANKAI, KUDLU VILLAGE AND POST
KASARAGOD TALUK.

BY ADV. SRI.P.K.MUHAMMED

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, GENERAL EDUCATION DEPARTMENT,
THIRUVANANTHAPURAM

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
THIRUVANANTHAPURAM

3. THE DISTRICT EDUCATIONAL OFFICER,
KASARAGOD.

BY GOVERNMENT PLEADER, SRI.T.T.MUHAMOOD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON C.M.P. NO.39409/2002 IN O.P. NO.23009/2002

CLOSED

SD/-

7-9-07. S.SIRI JAGAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE GOVERNMENT ORDER G.O.M.S.334/EDN. DATED 16.7.1966.

EXT. P2: COPY OF GOVERNMENT ORDER G.O.MS.119/76/G.EDUCATION DATED 28.6.76.

EXT. P3: COPY OF THE SERVICE CERTIFICATE ISSUED BY THE HEADMASTER, GOVT. HIGH SCHOOL, CANNANORE DATED 4.12.92.

EXT. P4: COPY OF THE GOVT. ORDER NO.G.O.(MS) 123/82/G.EDN. DATED 14.8.1982.

EXT. P5: COPY OF THE JUDGMENT IN O.P. NO.14292/1994 PASSED BY THE HON'BLE HIGH COURT OF KERALA DATED 22.11.1994.

EXT. P6: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT NO.G.O.(RT) NO.599/95/G.EDN. DATED 21.2.1995.

EXT. P7: COPY OF THE JUDGMENT IN O.P.NO.10566/1995 PASSED BY THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM DATED 17.9.2001.

EXT. P8: COPY OF THE GOVERNMENT ORDER NO.G.O.(RT) NO.2108/02/G.EDN. DATED 11.7.2002.

/TRUE COPY/

P.A. TO JUDGE

JP

S. SIRI JAGAN, J.

O.P. NO. 23009 OF 2002 - L

Dated this the 7th day of September, 2007

J U D G M E N T

This original petition relates to the claim of the petitioner for benefits as a Full Time Arabic Teacher with effect from 31.7.1964. Admittedly, there are no records to ascertain the eligibility of the petitioner as on the relevant date. The petitioner approached this Court earlier by filing O.P.No.10566 of 1995 producing a service certificate which, according to him, would prove his claim. This Court, by Ext.P7 judgment, directed the Government to consider the matter afresh taking into account sufficiency or otherwise of the particulars mentioned in the said service certificate referred to as Ext.P3 in that judgment and to pass fresh orders in accordance with law. Pursuant to the same, Ext.P8 order was passed by the Government rejecting the claim of the petitioner. Ext.P8 is under challenge in this original petition.

2. Now, the only question to be looked into is as to whether the said service certificate could have been relied upon for the purpose of granting the petitioner's claim. In Ext.P8, sufficiency of the said certificate was considered in paragraphs 5 and 6, as follows:-

> "5. The Ext.P3 service certificate produced by the petitioner is dated 4.12.1992 and it pertains to the period from 31.7.1964 to Nil and from 17.9.1964 to 31.3.1965. It is certified therein that the petitioner has taught 12 periods each in both High School and U.P.classes which would mean that the teacher has worked 24 periods during 31.7.64 to 31.3.1965. This is not possible for the following reasons:
>
> (a) The recording in the service book, vol.I of the teacher from page 10-15 clearly records the nature of the post of the petitioner. He is seen appointed as part-time Arabic teacher w.e.f 19.6.64 and continued as such till 30.7.1964. He was provisionally promoted as Arabic Pandit Gr.II w.e.f.31.7.1964 to 4.8.1964 in Government Secondary School, Kannur. He was given senior grade w.e.f. 5.8.64 to 16.9.64 in Government Secondary School, Madayi. Then

he was reverted to Junior Grade w.e.f. 16.9.64 in Government Secondary School, Kannur. He was full time Arabic teacher from 6.10.65 to 27.11.67.

(b) The Ext.P3 service certificate is dated 4.12.1992 and it is for the period from 31.7.1964 ie. the service certificate is given after a lapse of more than 28 years which is inappropriate to accept.

(c) The Ext.P3 service certificate produced by the petitioner is signed by the Headmaster, Government High School, Kannur for the period from 31.7.1964 to Nil and from 17.9.1964 to 31.3.1965. This cannot be accepted as the petitioner worked in Government High School, Kannur only from 31.7.64 to 4.8.64 ie. 4 days only. From 5.8.1964 he is seen posted to Government High School, Madayi and the Headmaster G.H.S., Kannur cannot authorise a certificate from 5.8.64 when the petitioner was working in Government High School, Madayi. The Headmaster of Government High School, Madayi has made correct entries in the Service book of the petitioner for the period from 5.8.64 to 16.9.64. It is also to be noted that the then Headmaster, Kannur has not mentioned the full period for which the service certificate is given. The Service Book entries clearly show that the petitioner was reverted to Junior Grade w.e.f.

16.9.1964. In these circumstances, the Ext.P3 Service Certificate issued by the Headmaster, Government High School, Kannur cannot be taken as an authentic evidence.

(d) From the records relating to the earlier O.P.14292/94 filed by the petitioner, it is seen that the petitioner has requested to sanction an Arabic post in Government High School, Kannur and Government High School, Madayi with retrospective effect after a lapse of 26 years. (letter No.A3-47496/87 (1) DPI dated 12.10.88 ie.Ext.P5 in O.P.14292/94). The purpose of creating a post of High School Assistant (Arabic) in two Government schools after a lapse of 26 years causing inevitable and inordinate administrative difficulties with the sole evidence of a service Certificate in which the dates are not specific and which is not consistent with the entries in the service Book of the petitioner, cannot be accepted. The authenticated entries in the service book is the criteria for Government to arrive at a conclusion of the nature and category of post to which the petitioner was appointed and according to this, he was promoted as Senior Arabic Pandit only from 27.11.1997.

6. In the circumstances detailed above, the request of the petitioner to create Full-time

> Arabic Teacher posts in Government High School, Kannur and Government High School, Madayi from 31.7.64 and 5.8.64 respectively and to promote him as High School Assistant (Arabic) w.e.f. 31.7.1964 cannot be considered and is therefore rejected."

3. On going through the above reasoning, I do not find anything wrong in the Government refusing to accept the said Service certificate as sufficient for the purpose of upholding the claim of the petitioner.

In the above circumstances, the Original Petition is without merit and accordingly, the same is dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

O.P.NO. 23009 OF 2002

J U D G M E N T

DATED: 07-09-2007